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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/494,218	01/28/2000	Jason M Brewer	TI-28385	3161

23494   7590   11/25/2008
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EXAMINER
BLAIR, DOUGLAS B

ART UNIT	PAPER NUMBER
2442	

NOTIFICATION DATE	DELIVERY MODE
11/25/2008	ELECTRONIC

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte JASON M. BREWER

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Appeal 2008-2278
Application 09/494,218
Technology Center 2100

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Decided: November 21, 2008

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Before JAY P. LUCAS, STEPHEN C. SIU, and
ST. JOHN COURTENAY III, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is a decision on appeal under 35 U.S.C. § 134(a) from the
Examiner's rejection of claims 1-9. We have jurisdiction under 35 U.S.C.
§ 6(b).

We REVERSE.

THE INVENTION

The disclosed invention relates generally to loading resolved Java class files to a client device (Spec. 1). More particularly, Appellant's invention reduces the processing requirements on the client from those needed to perform a full verify and resolve process to a memory copy (Spec. 7).

Independent claim 1 is illustrative:

1.   A method for loading class files from a server to a client comprising:

loading an application class onto a gateway server that preloads and preresolves said class;

creating a binary representation of the new portion of the preloaded and preresolved class at said gateway; and

sending only the new portion to the client.

THE REFERENCES

The Examiner relies upon the following references as evidence in support of the rejections:

Arnold	US 6,263,360 B1	Jul. 17, 2001
Brown	US 6,295,638 B1	Sep. 25, 2001
Mishra	US 6,389,589 B1	May 14, 2002

THE REJECTIONS

1. Claim 5 stands rejected under 35 U.S.C. §102(e) as being anticipated by Brown.

2. Claims 1-3 and 6-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Mishra.

3. Claims 4 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Mishra and Arnold.

4. Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Arnold.

CONTENTIONS BY APPELLANT

Appellant contends that the Examiner erred in rejecting all claims on appeal because the Brown reference neither teaches nor suggests a gateway (App. Br. 6-7). Specifically, Appellant notes that the Examiner has read the claimed gateway on a compiler disclosed by Brown (App. Br. 6). Appellant states that a "gateway" is a standard telecommunications terminology that connects two networks which have different protocols (*Id.*). Appellant notes that "Application Fig. 3 illustrates this with gateway 37 on wired network 41 with server 31 and connecting to wireless network 43 with client 45." (*Id.*). In contrast, Appellant notes that a compiler converts source code to machine code and has no suggestion of the claimed "gateway." (*Id.*).

EXAMINER'S RESPONSE

Regarding the recited limitation of a "gateway," the Examiner maintains that Brown's compiler process is a gateway, as follows:

> The Examiner does not agree with the appellant's narrow view of a gateway. The appellant does not disclose a gateway that connects two networks having two different protocols.
> The appellant's specification does not mention any protocols or any translation between protocols. The appellant's own specification states that, "The client 35 loads the application through a **gateway 37 at or wired to the server** at the server location" (Appellant's specification, page 6, lines 12-14). If the

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gateway can be at the server in Figure 3, then the "wired
network 41" is not even necessary for the appellant's claimed
gateway to function. In view of the appellant's disclosure it is
more appropriate to interpret the claimed gateway
according to the more generic American Heritage Dictionary
definition of a gateway which is "something that serves as an
entrance or a means of access."

(Ans. 7-8).

Brown teaches a server featuring a compiler process that
functions as the claimed gateway as shown in the mapping in
the rejection of claim 5 based on Brown (Shown in the
previous section). The server in Brown sends compiled Java
files as FCCF code to the client. The compiler process is
considered a "gateway" because it serves as the entrance for
Java class files that are to be converted into FCCF code format
and sent to the client. This interpretation is consistent with the
appellant's broad disclosure of a gateway which in no way
limited to what the appellant is now arguing a gateway is.

(Ans. 8).

ISSUE(S)

In accordance with the aforementioned contentions, we have

determined that the following issue is dispositive in this appeal:

Has Appellant shown that the Examiner erred in finding that

Brown discloses the gateway limitation recited in each

independent claim on appeal (independent claims 1, 2, 5, 7, and

8)?

PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 102, "[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation." *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375-76 (Fed. Cir. 2005) (citation omitted).

Appellant has the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006). Therefore, we look to Appellant's Brief to show error in the proffered prima facie case.

FINDINGS OF FACTS

The following Findings of Facts (FF) are shown by a preponderance of the evidence.

The Brown reference

1. Brown discloses a "method and apparatus for loading native code into the memory of a data processing system for use by a Java virtual machine." (Col. 2, ll. 61-63).

2. Brown discloses a "traditional compiler process used to create a fully caffeinated class file (FCCF)" that reads and parses a Java source file (col. 7, ll. 24-28).

3. Brown discloses a server 104 connected to a network 102 which is further connected to a plurality of network computers 108, 110, and 112 (Fig. 1, col. 4, ll. 12-14).

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ANALYSIS

Independent claims 1, 2, 5, 7, and 8

During prosecution, "the PTO gives claims their 'broadest reasonable interpretation.'" *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). Our reviewing court has further determined that "the specification is 'the single best guide to the meaning of a disputed term,' and that the specification 'acts as a dictionary when it expressly defines terms used in the claims or when it defines terms by implication." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1321 (Fed. Cir. 2005) (en banc) (internal citations omitted).

Here, we find Appellant's interpretation of the claimed "gateway" to be fully consistent with Appellant's disclosure of gateway 37 (Figure 3), and also consistent with the meaning of the term "gateway" as that term known in the art. We note that Figure 3 of Appellant's Specification shows server 31 connected to gateway 37 via wired network 41 (*see also* Spec. 6, l. 19, "gateway 37 retrieves the class over the wired network 41"). Appellant's Figure 3 further illustrates gateway 37 connected via wireless network 43 to client 45 (*see also* Spec. 6, ll. 26-29, "This binary representation of the c-code . . . is sent over, for example, a wireless network 43").

The portion of Brown relied on by the Examiner discloses a "traditional compiler process used to create a fully caffeinated class file (FCCF)" that reads and parses a Java source file (FF 2). While Brown discloses a server 104 connected to a network 102 which is further connected to a plurality of network computers 108, 110, and 112 (FF 3), our review of the entirety of the Brown reference does not disclose a gateway nor a gateway server, as claimed. Moreover, our review of the Mishra and

Arnold references relied on in the obviousness rejections before us does not reveal a gateway, nor has the Examiner shown where a gateway is taught or suggested in these references. The Examiner relies entirely on Brown's compiler process for teaching the claimed gateway (*see* Ans. 3, 7-8).

We are not persuaded by the Examiner's argument that the generic American Heritage Dictionary definition of a gateway is applicable here (i.e., where a gateway is "something that serves as an entrance or a means of access"). (*see* Ans. 8). We find the Examiner's interpretation of the claimed gateway (and gateway server) to be broad but not reasonable when the term "gateway" is considered in a manner consistent with Appellant's disclosure.

We find a compiler is not remotely a gateway, as we agree with Appellant's interpretation that claimed "gateway" is a standard telecommunications terminology that connects two networks which may have different protocols (*see* App. Br. 6). As previously discussed, Appellant discloses a wired network 41 and a wireless network 43 connected by a gateway 37 that connects the two networks, as shown in Fig. 3. Appellant also provides support for the claimed gateway server (claim 5) where the gateway is "at or wired to the server at the server location." (Spec. 6, ll. 13-14).

Accordingly, we conclude Appellant has met the burden of showing that the Examiner erred in finding that Brown discloses the gateway limitations recited in each independent claim on appeal (independent claims 1, 2, 5, 7, and 8).

Therefore, we reverse the Examiner's rejection of independent claim 5 as being anticipated by Brown and we reverse the Examiner's obviousness rejections of independent claims 1, 2, 7, and 8. Because we have reversed

the Examiner's rejection of each independent claim on appeal, we also reverse the Examiner's rejection of each dependent claim on appeal.

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude Appellant has met the burden of showing that the Examiner erred in rejecting claim 5 under 35 U.S.C. § 102(e) for anticipation.

Based on the findings of facts and analysis above, we conclude Appellant has met the burden of showing that the Examiner erred in rejecting claims 1-4 and 6-9 under 35 U.S.C. § 103(a) for obviousness.

DECISION

We reverse the Examiner's decision rejecting claims 1-9.

<u>REVERSED</u>

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